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THE DISTRICT COURT.

Judge Hawkins Changes Off With Judge Bethune.

The John Hawks Trial Takes Up the Time of the Court During Tuesday and Wednesday.

Judge Hawkins adjourned the District court last Thursday until Monday, a change of venue having been prayed for in the case of J. H. Hoskins jr. vs. R. E. Daggs. Judge J. E. Bethune, who was holding court a Tuesday, was sent for and Judge Hawkins left Friday to take his place.

Judge Bethune arrived Sunday morning and opened court Monday at 10 o'clock.

The case of J. H. Hoskins vs. R. E. Daggs, being an action to recover the sum of \$800 paid to defendant, was continued over until this morning. The next case on the docket, the Territory vs. John Hawks, indicted by the grand jury for manslaughter, was set for 2 o'clock.

District Attorney E. S. Clark appeared for the Territory and Attorneys J. E. Jones and T. S. Bunch for the defense.

The first witness examined by the prosecution was William Sweeney of Gallup, N. M., who testified to witnessing the shooting of Cecilio Silva by John Hawks, his testimony tending to show that the killing of the Mexican was unjustifiable on the ground of self defense.

Several other witnesses, all Mexicans, for the prosecution followed Mr. Sweeney, their testimony in the main going to show the peaceable character of Cecilio Silva and that the shooting was unwarranted by any plea of self defense.

Court adjourned then until 9 o'clock Tuesday.

Tuesday morning two more Mexicans were called, giving about the same testimony as that of their countrymen examined Monday.

Sheriff R. H. Cameron testified to the arrest of the defendant. Dr. W. S.

Robinson was the last witness for the prosecution and, in answer to questions by counsel for the Territory and the defense, stated that Silva may have died from a hemorrhage or similar ailment. This ended the examination for the Territory.

The defense called Frank Leslie to the stand. This witness testified to being present at the killing of Silva; was within eight or ten feet of the latter when he saw him fall; did not see Hawks shoot; saw the Mexican raise from a crouching position and advance upon defendant, some one yelled, "Look out, Hawks!" at which the latter turned around and seeing the Mexican approaching him rapidly and with his right hand to his hip pocket called out to Silva to "stop, take your hand out of your pocket." The defendant repeated this command twice and Silva was then within three feet of Hawks; at the second command Silva stopped, took a step backward, with his hand still upon his hip; shot was fired then and the Mexican fell. On cross examination witness' testimony remained unshaken.

The next witness called was George Marshall, who testified to seeing the deceased Silva advancing in a threatening manner toward defendant. Witness called out, "Look out, Hawks." Defendant wheeled around and as Silva was approaching commanded him to stop, to take his hand out of his pocket; witness then saw defendant shoot Silva, who was so close upon Hawks that the clothing of deceased caught fire from the pistol. Witness testified to being aware of the trouble between Silva and John Hawks and to witnessing, some time before the shooting, deceased throwing a rock at defendant and hitting him in the neck.

R. C. Jones testified to being in front of saloon when shooting happened; saw the deceased advancing upon Hawks with his right hand in vicinity of hip pocket; witness thought he could distinguish instrument of some kind—looked like a knife, but was not sure—in right hand of Silva. Heard some one call out, "Look out, Hawks." Saw Hawks wheel around, facing the Mexican, and commanded him (Silva) to halt and take his hand out of his pocket. Silva stopped and

turned slightly to the right as though to brace himself, his hand still being in vicinity of hip pocket. Hawks then fired and Silva fell.

Thomas McMillon was the next witness; stated that deceased Silva had been in his employ at Fisher's Tanks for two months prior to the killing; Silva approached witness one day and asked to be excused from his work, as he wanted to go to Flagstaff and kill John Hawks; deceased repeated this threat to witness the same evening. The next day witness was in town and seeing Hawks near Bab-bitt's, told him what the Mexican Silva had said and warned him to be on his guard.

Will D. Tinkert testified substantially the same as witnesses Marshall and Jones.

The defendant was then put on the stand and related to the jury the details of the shooting; testified to having been hit in the neck with a stone by the Mexican Silva some time before this and to having been warned by Mr. McMillon that the deceased had threatened to kill him. When Silva advanced upon defendant, witness believed he was about to carry his threat into execution. Told him to take his hand out of his hip pocket, fearing he was about to draw a knife or a revolver. The defendant, fearing for his life, then shot. Mr. Hawks testified to not having met or seen the deceased Silva before shooting that night, and when he heard someone call out, "Look out, Hawks," and turning saw this Mexican advancing upon him, believed that he would be killed unless he defended himself. On being questioned why he ran away immediately after the shooting, witness testified that he was away from Flagstaff two days and then came back to give himself up; that he went to his home and hid for a few days. His father advised him to go away until the thing blew over, and then return and stand trial. Witness followed this advice and went away.

J. F. Hawks, father of the defendant, was placed on the stand and testified that he had advised defendant to skip out until the matter quieted down, that times were hard just then with him; if John would stay away until witness was financially able to defend the accused, and until the thing had blown over, he would stand by the defendant and see him through the trial.

The affidavit of William Swoyer, an eye-witness of the shooting, was introduced and read by counsel for defendant. In the deposition Swoyer, who is now a resident of British Columbia, swears that he saw the Mexican advancing upon Hawks with uplifted hand, in which he held a huge knife; that John Hawks fired in self defense.

The defense here rested their case and counsel for the prosecution, District Attorney E. S. Clark, made his opening address to the jury. Mr. Clark's arguments were forcible, strong and at times sensational; the address was a very able one.

T. S. Bunch of counsel for the defense, at the conclusion of the argument of the prosecution, began the opening address for the defendant and dwelt at length on the court's instructions to the jury, and the law and the evidence. J. E. Jones then took up the endgame and in an eloquent manner reviewed the evidence both for and against the defense. He made a most telling plea and in one instance almost brought tears to the eyes of the jurors by his allusion to the devotion of the father for the unfortunate son.

The District Attorney gave his closing address and at 5 o'clock the case went to the jury.

The jury was out about two hours and a half and returned a verdict of "Not Guilty."

The case of M. Altmann, charged with grand larceny, comes up this morning.

The case of the Territory vs. Frank Rogers, charged with horsestealing, tried yesterday, resulted in a verdict of guilty.

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